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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/512,313	02/24/2000	Tohru Hotta	Q57991	5777
7590 10/06/2003				
Sughrue Mion Zinn MacPeak & Seas PLLC 2100 Pennsylvania Ave NW Washington, DC 20037				
			EXAMINER NGUYEN, TUAN N	
			ART UNIT 2828	PAPER NUMBER

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/512,313

Applicant(s)

HOTTA ET AL.

Examiner

Tuan N Nguyen

Art Unit

2828

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1,4-7,13 and 15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-7,13 and 15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.



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## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_ 6) ☐ Other:

## DETAILED ACTION

### *Response to Amendment*

1. In response to applicant's amendment filed August 11, 2003, claims 1, 4-7, 13, and 15 are pending.
2. Applicant's arguments with respect to claims 1, 4-7, 13, and 15 have been considered but are moot in view of new ground(s) of rejection.

### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or non-obviousness.
4. Claims 1-3, 7, 13, 10-12, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kabu et al. (US 4751695) in view of Hueton et al. (US 5459325) or Shiba et al. (US 5195070).

With respect to claims 1, 4, and 15 Kaku et al. '695 discloses an optical pickup apparatus having a supporting frame, a laser light emitting device supported by the frame, a deflector deflect light emitted from the laser light so that the light narrowest and aligned with the optical recording disk, and a lens drive supported by the supporting frame, the lens drive operable to move an objective lens in a focusing direction and a tracking direction of an optical recording disk to converge the laser light deflected by the deflector onto the optical recording disk (Figure8: 70-75, 93-96). However, Kaku et al. '695 did not disclose the deflector adjustable in a direction perpendicular to the optical axis of the laser light. Hueton et al. '325 (Fig 1: 13, 12, 20) or Shiba et al. '070 (Fig 6: 15, Fig 18A: 30a-30e) show the deflector adjustable in a direction perpendicular to the optical axis of the laser light so that the laser light is aligned with radial direction of the optical disk. It would have been obvious to one of ordinary skill in the art to provide Kaku et al. ('695) with the deflector adjustable in a direction perpendicular to the optical axis of the laser light as taught or suggested Hueton et al. '325 or Shiba et al., so that the laser light is aligned with radial direction of the optical disk such that offset between center of laser light and objective lens is eliminated. Since claims 4 and 15 recite the same or identical elements/limitations it is inherent to use patents ('695) to recite the method of manufacturing optical pickup apparatus, product by process.

With respect to claims 5-7, and 13 Kaku et al. '695 shows the deflection angle of the deflector is perpendicular to an aperture of the objective lens and an adjuster for adjusting the deflection angle of the deflector and where laser records information on the optical recording disk (Figure8: 70-75, 93-96).

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***Communication Information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan N Nguyen whose telephone number is (703) 605-0756. The examiner can normally be reached on M-F: 7:30 - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Ip can be reached on (703) 308-3098. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 746-8592 for regular communications and (703) 746-8592 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

Tuan N. Nguyen

  
September 9, 2003



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